

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

STILETTO CARLUCCI LUCIANO, a/k/a
Staccato Carlos Valentino Blakely,

Civil File No. 08-200 (MJD/SRN)

Plaintiff,

v.

REPORT AND RECOMMENDATION

SUSAN -L.L.S.P. Librarian,
DANIEL LUNDE, State law library
Head of outreach Services, MAIL ROOM
EMPLOYEES OF THE FARIBAULT MN
STATE PRISON, ALSO OTHER
EMPLOYEES OF THE MN STATE
PRISON OF FARIBAULT, A/W BELTZ,
A/W L. STENDERH, Chief Warden
CONNIE ROEHRICH, Commissioner
JOAN FABIAN, ERIK SKON, DENNIS
BENSON of the MN State Prisons, and
MIKE JOHNSON, C. Worker and C.W.
Supervisor,

Defendants.

Plaintiff, a prisoner of the State of Minnesota, commenced this action by filing a complaint seeking relief under 42 U.S.C. § 1983. (Docket No. 1.) He did not pay any filing fee when he filed this action, but instead applied for leave to proceed in forma pauperis, (“IFP”). (Docket No. 2.)

When the matter came before this Court for initial review, the Court noted that Plaintiff is barred from proceeding IFP under the “three strikes rule” set forth at 28 U.S.C. § 1915(g).¹ Therefore, by order dated January 24, 2008, (Docket No. 3), the Court directed

¹ Section 1915(g) was enacted as part of the Prison Litigation Reform Act of 1995 (“PLRA”). It provides that:

Plaintiff to pay the full \$350 filing fee prescribed by 28 U.S.C. § 1914(a). That order expressly advised Plaintiff that if he did not pay the full filing fee by February 22, 2008, the Court would recommend that this action be summarily dismissed.

The deadline for paying the filing fee has now passed, and Plaintiff has not paid it. In fact, Plaintiff has not communicated with the Court at all since he initiated this action. Therefore, in accordance with the Court's prior order, it is now recommended that this action be dismissed without prejudice for failure to prosecute. See Fed. R. Civ. P. 41(b) (actions may be dismissed for failure to comply with court orders); Link v. Wabash Railroad Co., 370 U.S. 626, 630-31 (1962) (recognizing that a federal court has the inherent authority to "manage [its] own affairs so as to achieve the orderly and expeditious disposition of cases").

RECOMMENDATION

Based upon the above, and upon all the files, records, and proceedings herein,

IT IS RECOMMENDED that:

This action be SUMMARILY DISMISSED WITHOUT PREJUDICE.

Dated: April 2, 2008

s/ Susan Richard Nelson
SUSAN RICHARD NELSON
United States Magistrate Judge

"In no event shall a prisoner bring a civil action or appeal a judgment in a civil action or proceeding under this section [i.e., the IFP statute -- 28 U.S.C. § 1915] if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury."

Under D. Minn. LR 72.2(b) any party may object to this Report and Recommendation by filing with the Clerk of Court, and serving all parties by **April 17, 2008** a writing which specifically identifies those portions of this Report to which objections are made and the basis of those objections. Failure to comply with this procedure may operate as a forfeiture of the objecting party's right to seek review in the Court of Appeals. This Report and Recommendation does not constitute an order or judgment of the District Court, and it is therefore not appealable to the Circuit Court of Appeals.